

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

AMENDED IN ASSEMBLY MARCH 27, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 938

**Introduced by Committee on Judiciary (Feuer (Chair), Brownley,
Evans, Jones, Krekorian, Lieu, and Monning)**

February 26, 2009

An act to amend ~~Sections 309, 317.5, 319, 358, 358.1, and 361.3~~
Section 309 of the Welfare and Institutions Code, relating to dependent
children.

LEGISLATIVE COUNSEL'S DIGEST

AB 938, as amended, Committee on Judiciary. Dependent children:
relative caregivers and foster parents.

(1) Existing law authorizes a social worker to take a child who is at risk of abuse or neglect into temporary custody under specified circumstances. Existing law requires the social worker to investigate the circumstances of the child and the facts surrounding the taking of the child into custody. Existing law requires that the social worker immediately release the child to the custody of the child's parent or guardian, or other responsible relative, except under certain conditions. If the child is not released to the custody of his or her parent or guardian, the child is deemed to be detained, and a detention hearing must be conducted before the expiration of the next judicial day after a petition to declare the minor a dependent child of the juvenile court has been filed.

~~Existing law provides for an initial petition hearing to determine, among other things, whether a child shall remain in detention, and, with respect to a child who is adjudged a dependent child of the juvenile court and placed in foster care, for periodic status review hearings to review, among other things, the continuing necessity for and appropriateness of the placement. Prior to a status review hearing regarding a child who is in the physical custody of a foster parent, a relative caregiver, or a certified foster parent who has been approved for adoption by the State Department of Social Services or by a licensed county adoption agency, as specified, the foster parent, relative caregiver, or certified foster parent may file with the court a report containing his or her recommendation for disposition.~~

This bill would require a social worker, when a child is removed from the home, to ~~immediately~~ begin conducting, *within 30 days*, an investigation, as specified, in order to identify and locate all grandparents, adult siblings, and other adult relatives of the child, in order to provide, except when that relative's history of family or domestic violence makes notification inappropriate, those persons with specified information, including that the child has been removed from the custody of his or her parents or guardians and an explanation of various options to participate in the care and placement of the child, as specified, and to report to the court at the initial petition hearing regarding that effort. The bill would require the State Department of Social Services to develop the notice providing that information to relatives before January 1, 2011. ~~The bill would require each social study or evaluation to include a factual discussion of these efforts, as specified. The bill would require the court to inquire at the initial petition hearing regarding those efforts.~~

The bill would also require the Judicial Council to develop a relative information form, as specified. The form would provide information regarding the needs of the child, and would include a provision whereby the relative may request the permission of the court to address the court. The bill would require a social worker to provide that form, on and after January 1, 2011, to the adult relatives identified pursuant to the provision described above.

~~The bill would require the court to consider the information provided on a relative information form, to receive the form into evidence, and to explain to a parent the importance of obtaining that information to the child's well-being. By above. By imposing new duties on social workers, the bill would impose a state-mandated local program.~~

~~(2) Existing law authorizes the juvenile court to appoint counsel to represent a parent or guardian in dependency proceedings if that parent or guardian cannot afford counsel.~~

~~The bill would also express the intent of the Legislature that all parties to juvenile court hearings have a meaningful opportunity to participate in the hearings and, at a minimum, have the opportunity to review reports and confer with their attorneys before all dependency hearings.~~

~~The bill would specifically authorize attorneys representing children in dependency proceedings to utilize investigators or social workers to meet with or visit child clients in order to assess the child's well-being. The bill would require the court to inquire at each dependency hearing as to whether the parties were able to review reports and confer with their attorneys before the hearing, and to continue the hearing under specified circumstances to allow a party to review a report and confer with his or her attorney.~~

~~(3)~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 309 of the Welfare and Institutions Code
2 is amended to read:
3 309. (a) Upon delivery to the social worker of a child who has
4 been taken into temporary custody under this article, the social
5 worker shall immediately investigate the circumstances of the child
6 and the facts surrounding the child's being taken into custody and
7 attempt to maintain the child with the child's family through the
8 provision of services. The social worker shall immediately release
9 the child to the custody of the child's parent, guardian, or
10 responsible relative unless one or more of the following conditions
11 exist:

1 (1) The child has no parent, guardian, or responsible relative;
2 or the child's parent, guardian, or responsible relative is not willing
3 to provide care for the child.

4 (2) Continued detention of the child is a matter of immediate
5 and urgent necessity for the protection of the child and there are
6 no reasonable means by which the child can be protected in his or
7 her home or the home of a responsible relative.

8 (3) There is substantial evidence that a parent, guardian, or
9 custodian of the child is likely to flee the jurisdiction of the court.

10 (4) The child has left a placement in which he or she was placed
11 by the juvenile court.

12 (5) The parent or other person having lawful custody of the
13 child voluntarily surrendered physical custody of the child pursuant
14 to Section 1255.7 of the Health and Safety Code and did not
15 reclaim the child within the 14-day period specified in subdivision
16 (e) of that section.

17 (b) In any case in which there is reasonable cause for believing
18 that a child who is under the care of a physician and surgeon or a
19 hospital, clinic, or other medical facility and cannot be immediately
20 moved and is a person described in Section 300, the child shall be
21 deemed to have been taken into temporary custody and delivered
22 to the social worker for the purposes of this chapter while the child
23 is at the office of the physician and surgeon or the medical facility.

24 (c) If the child is not released to his or her parent or guardian,
25 the child shall be deemed detained for purposes of this chapter.

26 (d) (1) If an able and willing relative, as defined in Section 319,
27 or an able and willing nonrelative extended family member, as
28 defined in Section 362.7, is available and requests temporary
29 placement of the child pending the detention hearing, the county
30 welfare department shall initiate an assessment of the relative's or
31 nonrelative extended family member's suitability, which shall
32 include an in-home inspection to assess the safety of the home and
33 the ability of the relative or nonrelative extended family member
34 to care for the child's needs, and a consideration of the results of
35 a criminal records check conducted pursuant to subdivision (a) of
36 Section 16504.5 and a check of allegations of prior child abuse or
37 neglect concerning the relative or nonrelative extended family
38 member and other adults in the home. Upon completion of this
39 assessment, the child may be placed in the assessed home. For
40 purposes of this paragraph, and except for the criminal records

1 check conducted pursuant to subdivision (a) of Section 16504.5,
2 the standards used to determine suitability shall be the same
3 standards set forth in the regulations for the licensing of foster
4 family homes.

5 (2) Immediately following the placement of a child in the home
6 of a relative or a nonrelative extended family member, the county
7 welfare department shall evaluate and approve or deny the home
8 for purposes of AFDC-FC eligibility pursuant to Section 11402.
9 The standards used to evaluate and grant or deny approval of the
10 home of the relative and of the home of a nonrelative extended
11 family member, as described in Section 362.7, shall be the same
12 standards set forth in regulations for the licensing of foster family
13 homes which prescribe standards of safety and sanitation for the
14 physical plant and standards for basic personal care, supervision,
15 and services provided by the caregiver.

16 (3) To the extent allowed by federal law, as a condition of
17 receiving funding under Title IV-E of the federal Social Security
18 Act (42 U.S.C. Sec. 670 et seq.), if a relative or nonrelative
19 extended family member meets all other conditions for approval,
20 except for the receipt of the Federal Bureau of Investigation's
21 criminal history information for the relative or nonrelative extended
22 family member, and other adults in the home, as indicated, the
23 county welfare department may approve the home and document
24 that approval, if the relative or nonrelative extended family
25 member, and each adult in the home, has signed and submitted a
26 statement that he or she has never been convicted of a crime in the
27 United States, other than a traffic infraction as defined in paragraph
28 (1) of subdivision (a) of Section 42001 of the Vehicle Code. If,
29 after the approval has been granted, the department determines
30 that the relative or nonrelative extended family member or other
31 adult in the home has a criminal record, the approval may be
32 terminated.

33 (4) If the criminal records check indicates that the person has
34 been convicted of a crime for which the Director of Social Services
35 cannot grant an exemption under Section 1522 of the Health and
36 Safety Code, the child shall not be placed in the home. If the
37 criminal records check indicates that the person has been convicted
38 of a crime for which the Director of Social Services may grant an
39 exemption under Section 1522 of the Health and Safety Code, the
40 child shall not be placed in the home unless a criminal records

1 exemption has been granted by the county based on substantial
2 and convincing evidence to support a reasonable belief that the
3 person with the criminal conviction is of such good character as
4 to justify the placement and not present a risk of harm to the child.

5 (e) (1) If the child is removed, the social worker shall
6 ~~immediately begin conducting~~ *begin conducting, within 30 days,*
7 an investigation in order to identify and locate all grandparents,
8 adult siblings, and other adult relatives of the child, as defined in
9 paragraph (2) of subdivision (f) of Section 319. For all adult
10 relatives who are located, except when that relative's history of
11 family or domestic violence makes that notification inappropriate,
12 the social worker shall ~~immediately provide~~ *provide, within 30*
13 *days,* written notification and shall also provide oral notification
14 in person or by phone, whenever appropriate, of the following
15 information:

16 (A) The child has been removed from the custody of his or her
17 parent or parents, or his or her guardians.

18 (B) An explanation of the various options to participate in the
19 care and placement of the child and support for the child's family,
20 including any options that may be lost by failing to respond. The
21 notice shall provide information about providing care for the child
22 while the family receives reunification services with the goal of
23 returning the child to the parent or guardian, how to become a
24 foster family home or approved nonrelative extended family
25 member as defined in Section 362.7, and additional services and
26 support that are available in out-of-home placements, including
27 child care, and shall include information regarding the Kin-GAP
28 Program (Article 4.5 (commencing with Section 11360) of Chapter
29 2 of Part 3 of Division 9), the CalWORKs program for approved
30 relative caregivers (Chapter 2 (commencing with Section 11200)
31 of Part 3 of Division 9), adoption, and adoption assistance (Chapter
32 2.1 (commencing with Section 16115) of Part 4 of Division 9), as
33 well as other options for contact with the child, including, but not
34 limited to, visitation. The State Department of Social Services, in
35 consultation with the County Welfare Directors Association and
36 other interested stakeholders, shall develop the notice before
37 January 1, 2011.

38 (2) On and after January 1, 2011, the social worker shall also
39 provide the adult relatives notified pursuant to paragraph (1) with
40 a relative information form to provide information to the social

worker and the court regarding the needs of the child. The form shall include a provision whereby the relative may request the permission of the court to address the court, if the relative so chooses. The Judicial Council, in consultation with the State Department of Social Services and the County Welfare Directors Association, shall develop the form.

(3) The social worker shall use due diligence in investigating the names and ~~location~~ *locations* of the relatives pursuant to paragraph (1), including, but not limited to, asking the child in an age-appropriate manner about relatives important to the child, consistent with the child's best interest, and obtaining information regarding the location of the child's adult relatives from the California Parent Locator Service, in accordance with federal requirements. Each county welfare department shall create and make public a procedure by which relatives of a child who has been removed from his or her parents or guardians may identify themselves to the department and be provided with the notices required by paragraphs (1) and (2).

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SEC. 2. Section 317.5 of the Welfare and Institutions Code is amended to read:~~

~~317.5. (a) All parties who are represented by counsel at dependency proceedings shall be entitled to competent counsel. In order to ensure competent representation, it is the intent of the Legislature that all parties to juvenile court hearings have a meaningful opportunity to participate in these hearings, including the opportunity to review reports and confer with their attorneys before all dependency hearings. It is expected that the attorney will counsel the client concerning the subject matter of the litigation, the client's rights, the court system, the proceedings, the attorney's role, and what to expect in the legal process, and that the attorney will investigate the factual and legal issues in the case and identify the services needed by the client. It is the intent of the Legislature that the attorney review all reports to the court and any other relevant information with the client including child~~

1 clients who are four years of age or older, and ensure that the
2 attorney has explained the substance of those reports to the client.

3 (b) ~~It is the intent of the Legislature that the attorney for a party~~
4 ~~in a dependency case must have sufficient contact with that party~~
5 ~~to establish and maintain an adequate and professional~~
6 ~~attorney-client relationship. Attorneys in dependency cases are~~
7 ~~expected to meet regularly with clients, including clients who are~~
8 ~~children, regardless of the age of the child or the child's ability to~~
9 ~~communicate verbally, to contact social workers and other~~
10 ~~professionals associated with the client's case, and to work~~
11 ~~professionally with other counsel and the court to resolve disputed~~
12 ~~aspects of a case.~~

13 (e) ~~Notwithstanding subdivision (b), attorneys representing~~
14 ~~children in dependency proceedings may utilize investigators or~~
15 ~~social workers to meet with or visit child clients in order to assess~~
16 ~~the child's well-being. The attorney's communication with the~~
17 ~~child, including counseling the child concerning the subject matter~~
18 ~~of the litigation, the client's rights, the court system, the attorney's~~
19 ~~role, and what to expect in the legal process, shall be conducted~~
20 ~~in a manner consistent with the child's age and developmental~~
21 ~~level.~~

22 (d) ~~Each minor who is the subject of a dependency proceeding~~
23 ~~is a party to that proceeding.~~

24 (e) ~~At each dependency hearing, the court shall inquire as to~~
25 ~~whether the parties were able to review reports and confer with~~
26 ~~their attorneys before the hearing. If a party did not receive proper~~
27 ~~notice, did not receive the report, or was not able to confer with~~
28 ~~his or her attorney prior to the hearing, and the party requests a~~
29 ~~continuance in order to review the report and confer with his or~~
30 ~~her attorney, the court shall continue the hearing to allow the party~~
31 ~~to review reports and confer with his or her attorney, unless the~~
32 ~~court finds that it is not in the best interest of the minor, or would~~
33 ~~prejudice the rights of a party, to continue the hearing. The court~~
34 ~~shall continue the hearing only for that period of time necessary~~
35 ~~to provide the opportunity to review reports and confer with the~~
36 ~~attorney, which may even be later the same day. The court may~~
37 ~~issue any and all orders reasonably necessary to ensure compliance~~
38 ~~with this subdivision.~~

39 SEC. 3. ~~Section 319 of the Welfare and Institutions Code is~~
40 ~~amended to read:~~

1 319. ~~(a) At the initial petition hearing, the court shall examine~~
2 ~~the child's parents, guardians, or other persons having relevant~~
3 ~~knowledge and hear the relevant evidence as the child, the child's~~
4 ~~parents or guardians, the petitioner, or their counsel desires to~~
5 ~~present. The court may examine the child, as provided in Section~~
6 ~~350.~~

7 ~~(b) The social worker shall report to the court on the reasons~~
8 ~~why the child has been removed from the parent's physical custody;~~
9 ~~the need, if any, for continued detention, the available services~~
10 ~~and the referral methods to those services that could facilitate the~~
11 ~~return of the child to the custody of the child's parents or guardians;~~
12 ~~and whether there are any relatives who are able and willing to~~
13 ~~take temporary physical custody of the child. The court shall order~~
14 ~~the release of the child from custody unless a prima facie showing~~
15 ~~has been made that the child comes within Section 300, the court~~
16 ~~finds that continuance in the parent's or guardian's home is~~
17 ~~contrary to the child's welfare, and any of the following~~
18 ~~circumstances exist:~~

19 ~~(1) There is a substantial danger to the physical health of the~~
20 ~~child or the child is suffering severe emotional damage, and there~~
21 ~~are no reasonable means by which the child's physical or emotional~~
22 ~~health may be protected without removing the child from the~~
23 ~~parent's or guardian's physical custody.~~

24 ~~(2) There is substantial evidence that a parent, guardian, or~~
25 ~~custodian of the child is likely to flee the jurisdiction of the court.~~

26 ~~(3) The child has left a placement in which he or she was placed~~
27 ~~by the juvenile court.~~

28 ~~(4) The child indicates an unwillingness to return home, if the~~
29 ~~child has been physically or sexually abused by a person residing~~
30 ~~in the home.~~

31 ~~(c) If the matter is continued pursuant to Section 322 or for any~~
32 ~~other reason, the court shall find that the continuance of the child~~
33 ~~in the parent's or guardian's home is contrary to the child's welfare~~
34 ~~at the initial petition hearing or order the release of the child from~~
35 ~~custody.~~

36 ~~(d) (1) The court shall also make a determination on the record,~~
37 ~~referencing the social worker's report or other evidence relied~~
38 ~~upon, as to whether reasonable efforts were made to prevent or~~
39 ~~eliminate the need for removal of the child from his or her home,~~
40 ~~pursuant to subdivision (b) of Section 306, and whether there are~~

1 available services that would prevent the need for further detention.
2 Services to be considered for purposes of making this determination
3 are case management, counseling, emergency shelter care,
4 emergency in-home caretakers, out-of-home respite care, teaching
5 and demonstrating homemakers, parenting training, transportation,
6 and any other child welfare services authorized by the State
7 Department of Social Services pursuant to Chapter 5 (commencing
8 with Section 16500) of Part 4 of Division 9. The court shall also
9 review whether the social worker has considered whether a referral
10 to public assistance services pursuant to Chapter 2 (commencing
11 with Section 11200) and Chapter 7 (commencing with Section
12 14000) of Part 3, Chapter 1 (commencing with Section 17000) of
13 Part 5, and Chapter 10 (commencing with Section 18900) of Part
14 6, of Division 9 would have eliminated the need to take temporary
15 custody of the child or would prevent the need for further detention.

16 (2) If the child can be returned to the custody of his or her parent
17 or guardian through the provision of those services, the court shall
18 place the child with his or her parent or guardian and order that
19 the services shall be provided. If the child cannot be returned to
20 the physical custody of his or her parent or guardian, the court
21 shall determine if there is a relative who is able and willing to care
22 for the child, and has been assessed pursuant to paragraph (1) of
23 subdivision (d) of Section 309.

24 (e) If a court orders a child detained, the court shall state the
25 facts on which the decision is based, specify why the initial removal
26 was necessary, reference the social worker's report or other
27 evidence relied upon to make its determination whether
28 continuance in the home of the parent or legal guardian is contrary
29 to the child's welfare, order temporary placement and care of the
30 child to be vested with the county child welfare department pending
31 the hearing held pursuant to Section 355 or further order of the
32 court, and order services to be provided as soon as possible to
33 reunify the child and his or her family if appropriate.

34 (f) (1) If the child is not released from custody, the court may
35 order that the child shall be placed in the assessed home of a
36 relative, in an emergency shelter or other suitable licensed place,
37 in a place exempt from licensure designated by the juvenile court,
38 or in the assessed home of a nonrelative extended family member
39 as defined in Section 362.7 for a period not to exceed 15 judicial
40 days.

1 ~~(2) As used in this section, “relative” means an adult who is~~
2 ~~related to the child by blood, adoption, or affinity within the fifth~~
3 ~~degree of kinship, including stepparents, stepsiblings, and all~~
4 ~~relatives whose status is preceded by the words “great,”~~
5 ~~“great-great,” or “grand,” or the spouse of any of these persons,~~
6 ~~even if the marriage was terminated by death or dissolution.~~
7 ~~However, only the following relatives shall be given preferential~~
8 ~~consideration for placement of the child: an adult who is a~~
9 ~~grandparent, aunt, uncle, or sibling of the child.~~

10 ~~(3) The court shall consider the recommendations of the social~~
11 ~~worker based on the assessment pursuant to paragraph (1) of~~
12 ~~subdivision (d) of Section 309 of the relative’s home, including~~
13 ~~the results of a criminal records check and prior child abuse~~
14 ~~allegations, if any, prior to ordering that the child be placed with~~
15 ~~a relative. The court shall explain to the parent the importance of~~
16 ~~obtaining relative information to the child’s well-being and shall~~
17 ~~order the parent to disclose to the social worker the names,~~
18 ~~residences, and any known identifying information of any maternal~~
19 ~~or paternal relatives of the child. The social worker shall initiate~~
20 ~~the assessment pursuant to Section 361.3 of any relative to be~~
21 ~~considered for continuing placement.~~

22 ~~(g) (1) At the initial hearing upon the petition filed in~~
23 ~~accordance with subdivision (c) of Rule 5.520 of the California~~
24 ~~Rules of Court or anytime thereafter up until the time that the~~
25 ~~minor is adjudged a dependent child of the court or a finding is~~
26 ~~made dismissing the petition, the court may temporarily limit the~~
27 ~~right of the parent or guardian to make educational decisions for~~
28 ~~the child and temporarily appoint a responsible adult to make~~
29 ~~educational decisions for the child if all of the following conditions~~
30 ~~are found:~~

31 ~~(A) The parent or guardian is unavailable, unable, or unwilling~~
32 ~~to exercise educational rights for the child.~~

33 ~~(B) The county placing agency has made diligent efforts to~~
34 ~~locate and secure the participation of the parent or guardian in~~
35 ~~educational decisionmaking.~~

36 ~~(C) The child’s educational needs cannot be met without the~~
37 ~~temporary appointment of a responsible adult.~~

38 ~~(2) If the court cannot identify a responsible adult to make~~
39 ~~educational decisions for the child and the appointment of a~~
40 ~~surrogate parent, as defined in subdivision (a) of Section 56050~~

1 of the Education Code, is not warranted, the court may, with the
2 input of any interested person, make educational decisions for the
3 child. If the court makes educational decisions for the child, the
4 court shall also issue appropriate orders to ensure that every effort
5 is made to identify a responsible adult to make future educational
6 decisions for the child.

7 ~~(3) Any temporary appointment of a responsible adult and~~
8 ~~temporary limitation on the right of the parent or guardian to make~~
9 ~~educational decisions for the child shall be specifically addressed~~
10 ~~in the court order. Any order made under this section shall expire~~
11 ~~at the conclusion of the hearing held pursuant to Section 361 or~~
12 ~~upon dismissal of the petition. Upon the entering of disposition~~
13 ~~orders, any additional needed limitation on the parent's or~~
14 ~~guardian's educational rights shall be addressed pursuant to Section~~
15 ~~361.~~

16 ~~(h) At the hearing held pursuant to this section, the court shall~~
17 ~~inquire regarding the efforts made by the social worker to comply~~
18 ~~with the requirements of subdivision (e) of Section 309, and the~~
19 ~~results of those efforts. The social worker shall also provide to the~~
20 ~~court and to the parties any relative information form, as provided~~
21 ~~for pursuant to Section 309, that has been completed and received.~~
22 ~~The court shall consider that information and, if applicable, shall~~
23 ~~decide whether to grant the request of a relative to address the~~
24 ~~court.~~

25 ~~SEC. 4. Section 358 of the Welfare and Institutions Code is~~
26 ~~amended to read:~~

27 ~~358. (a) After finding that a child is a person described in~~
28 ~~Section 300, the court shall hear evidence on the question of the~~
29 ~~proper disposition to be made of the child. Prior to making a~~
30 ~~finding required by this section, the court may continue the hearing~~
31 ~~on its own motion, the motion of the parent or guardian, or the~~
32 ~~motion of the child, as follows:~~

33 ~~(1) If the child is detained during the continuance, and the social~~
34 ~~worker is not alleging that subdivision (b) of Section 361.5 is~~
35 ~~applicable, the continuance shall not exceed 10 judicial days. The~~
36 ~~court may make an order for detention of the child or for the child's~~
37 ~~release from detention, during the period of continuance, as is~~
38 ~~appropriate.~~

39 ~~(2) If the child is not detained during the continuance, the~~
40 ~~continuance shall not exceed 30 days after the date of the finding~~

1 pursuant to Section 356. However, the court may, for cause,
2 continue the hearing for an additional 15 days.

3 (3) If the social worker is alleging that subdivision (b) of Section
4 361.5 is applicable, the court shall continue the proceedings for a
5 period not to exceed 30 days. The social worker shall notify each
6 parent of the content of subdivision (b) of Section 361.5 and shall
7 inform each parent that if the court does not order reunification a
8 permanency planning hearing will be held, and that his or her
9 parental rights may be terminated within the timeframes specified
10 by law.

11 (b) Before determining the appropriate disposition, the court
12 shall receive in evidence the social study of the child made by the
13 social worker, any study or evaluation made by a child advocate
14 appointed by the court, and other relevant and material evidence
15 as may be offered, including, but not limited to, the willingness
16 of the caregiver to provide legal permanency for the child if
17 reunification is unsuccessful, and any relative information form,
18 as provided for pursuant to Section 309. The court shall consider
19 the information in any relative information form and, if applicable,
20 shall decide whether to grant the request of a relative to address
21 the court. In any judgment and order of disposition, the court shall
22 specifically state that the social study made by the social worker
23 and the study or evaluation made by the child advocate appointed
24 by the court, if there be any, has been read and considered by the
25 court in arriving at its judgment and order of disposition. Any
26 social study or report submitted to the court by the social worker
27 shall include the individual child's case plan developed pursuant
28 to Section 16501.1.

29 (c) If the court finds that a child is described by subdivision (h)
30 of Section 300 or that subdivision (b) of Section 361.5 may be
31 applicable, the court shall conduct the dispositional proceeding
32 pursuant to subdivision (c) of Section 361.5.

33 SEC. 5. Section 358.1 of the Welfare and Institutions Code is
34 amended to read:

35 358.1. Each social study or evaluation made by a social worker
36 or child advocate appointed by the court, required to be received
37 in evidence pursuant to Section 358, shall include, but not be
38 limited to, a factual discussion of each of the following subjects:

39 (a) Whether the county welfare department or social worker has
40 considered child protective services, as defined in Chapter 5

1 ~~(commencing with Section 16500) of Part 4 of Division 9, as a~~
2 ~~possible solution to the problems at hand, and has offered these~~
3 ~~services to qualified parents if appropriate under the circumstances.~~

4 ~~(b) What plan, if any, for return of the child to his or her parents~~
5 ~~and for achieving legal permanence for the child if efforts to reunify~~
6 ~~fail, is recommended to the court by the county welfare department~~
7 ~~or probation officer.~~

8 ~~(c) Whether the best interests of the child will be served by~~
9 ~~granting reasonable visitation rights with the child to his or her~~
10 ~~grandparents, in order to maintain and strengthen the child's family~~
11 ~~relationships.~~

12 ~~(d) (1) Whether the child has siblings under the court's~~
13 ~~jurisdiction, and, if any siblings exist, all of the following:~~

14 ~~(A) The nature of the relationship between the child and his or~~
15 ~~her siblings.~~

16 ~~(B) The appropriateness of developing or maintaining the sibling~~
17 ~~relationships pursuant to Section 16002.~~

18 ~~(C) If the siblings are not placed together in the same home,~~
19 ~~why the siblings are not placed together and what efforts are being~~
20 ~~made to place the siblings together, or why those efforts are not~~
21 ~~appropriate.~~

22 ~~(D) If the siblings are not placed together, the frequency and~~
23 ~~nature of the visits between siblings.~~

24 ~~(E) The impact of the sibling relationships on the child's~~
25 ~~placement and planning for legal permanence.~~

26 ~~(2) The factual discussion shall include a discussion of indicators~~
27 ~~of the nature of the child's sibling relationships, including, but not~~
28 ~~limited to, whether the siblings were raised together in the same~~
29 ~~home, whether the siblings have shared significant common~~
30 ~~experiences or have existing close and strong bonds, whether either~~
31 ~~sibling expresses a desire to visit or live with his or her sibling, as~~
32 ~~applicable, and whether ongoing contact is in the child's best~~
33 ~~emotional interest.~~

34 ~~(e) The activities undertaken by the social worker to comply~~
35 ~~with the requirements of subdivision (e) of Section 309, and the~~
36 ~~results of those activities. The social worker shall also provide to~~
37 ~~the court and the parties any relative information form, as provided~~
38 ~~for pursuant to Section 309, that has been completed and received.~~

39 ~~(f) If the parent or guardian is unwilling or unable to participate~~
40 ~~in making an educational decision for his or her child, or if other~~

1 circumstances exist that compromise the ability of the parent or
2 guardian to make educational decisions for the child, the county
3 welfare department or social worker shall consider whether the
4 right of the parent or guardian to make educational decisions for
5 the child should be limited. If the study or evaluation makes that
6 recommendation, it shall identify whether there is a responsible
7 adult available to make educational decisions for the child pursuant
8 to Section 361.

9 (g) Whether the child appears to be a person who is eligible to
10 be considered for further court action to free the child from parental
11 custody and control.

12 (h) Whether the parent has been advised of his or her option to
13 participate in adoption planning, including the option to enter into
14 a postadoption contact agreement as described in Section 8714.7
15 of the Family Code, and to voluntarily relinquish the child for
16 adoption if an adoption agency is willing to accept the
17 relinquishment.

18 (i) The appropriateness of any relative placement pursuant to
19 Section 361.3. However, this consideration may not be cause for
20 continuance of the dispositional hearing.

21 (j) Whether the caregiver desires, and is willing, to provide legal
22 permanency for the child if reunification is unsuccessful.

23 SEC. 6. Section 361.3 of the Welfare and Institutions Code is
24 amended to read:

25 361.3. (a) In any case in which a child is removed from the
26 physical custody of his or her parents pursuant to Section 361,
27 preferential consideration shall be given to a request by a relative
28 of the child for placement of the child with the relative. In
29 determining whether placement with a relative is appropriate, the
30 county social worker and court shall consider, but shall not be
31 limited to, consideration of all the following factors:

32 (1) The best interest of the child, including special physical,
33 psychological, educational, medical, or emotional needs.

34 (2) The wishes of the parent, the relative, and child, if
35 appropriate.

36 (3) The provisions of Part 6 (commencing with Section 7950)
37 of Division 12 of the Family Code regarding relative placement.

38 (4) Placement of siblings and half siblings in the same home,
39 if that placement is found to be in the best interest of each of the
40 children as provided in Section 16002.

1 ~~(5) The good moral character of the relative and any other adult~~
2 ~~living in the home, including whether any individual residing in~~
3 ~~the home has a prior history of violent criminal acts or has been~~
4 ~~responsible for acts of child abuse or neglect.~~

5 ~~(6) The nature and duration of the relationship between the child~~
6 ~~and the relative, and the relative's desire to care for, and to provide~~
7 ~~legal permanency for, the child if reunification is unsuccessful.~~

8 ~~(7) The ability of the relative to do the following:~~

9 ~~(A) Provide a safe, secure, and stable environment for the child.~~

10 ~~(B) Exercise proper and effective care and control of the child.~~

11 ~~(C) Provide a home and the necessities of life for the child.~~

12 ~~(D) Protect the child from his or her parents.~~

13 ~~(E) Facilitate court-ordered reunification efforts with the parents.~~

14 ~~(F) Facilitate visitation with the child's other relatives.~~

15 ~~(G) Facilitate implementation of all elements of the case plan.~~

16 ~~(H) Provide legal permanence for the child if reunification fails.~~

17 ~~However, any finding made with respect to the factor considered~~
18 ~~pursuant to this subparagraph and pursuant to subparagraph (G)~~
19 ~~shall not be the sole basis for precluding preferential placement~~
20 ~~with a relative.~~

21 ~~(I) Arrange for appropriate and safe child care, as necessary.~~

22 ~~(8) The safety of the relative's home. For a relative to be~~
23 ~~considered appropriate to receive placement of a child under this~~
24 ~~section, the relative's home shall first be approved pursuant to the~~
25 ~~process and standards described in subdivision (d) of Section 309.~~

26 ~~In this regard, the Legislature declares that a physical disability,~~
27 ~~such as blindness or deafness, is no bar to the raising of children,~~
28 ~~and a county social worker's determination as to the ability of a~~
29 ~~disabled relative to exercise care and control should center upon~~
30 ~~whether the relative's disability prevents him or her from exercising~~
31 ~~care and control. The court shall explain to the parent the~~
32 ~~importance of obtaining relative information to the child's~~
33 ~~well-being and shall order the parent to disclose to the county~~
34 ~~social worker the names, residences, and any other known~~
35 ~~identifying information of any maternal or paternal relatives of~~
36 ~~the child. This inquiry shall not be construed, however, to guarantee~~
37 ~~that the child will be placed with any person so identified. The~~
38 ~~county social worker shall initially contact the relatives given~~
39 ~~preferential consideration for placement to determine if they desire~~
40 ~~the child to be placed with them. Those desiring placement shall~~

1 be assessed according to the factors enumerated in this subdivision.
2 The county social worker shall document these efforts in the social
3 study prepared pursuant to Section 358.1. The court shall authorize
4 the county social worker, while assessing these relatives for the
5 possibility of placement, to disclose to the relative, as appropriate,
6 the fact that the child is in custody, the alleged reasons for the
7 custody, and the projected likely date for the child's return home
8 or placement for adoption or legal guardianship. However, this
9 investigation shall not be construed as good cause for continuance
10 of the dispositional hearing conducted pursuant to Section 358.

11 (b) In any case in which more than one appropriate relative
12 requests preferential consideration pursuant to this section, each
13 relative shall be considered under the factors enumerated in
14 subdivision (a):

15 (c) For purposes of this section:

16 (1) "Preferential consideration" means that the relative seeking
17 placement shall be the first placement to be considered and
18 investigated.

19 (2) "Relative" means an adult who is related to the child by
20 blood, adoption, or affinity within the fifth degree of kinship;
21 including stepparents, stepsiblings, and all relatives whose status
22 is preceded by the words "great," "great-great," or "grand," or the
23 spouse of any of these persons even if the marriage was terminated
24 by death or dissolution. However, only the following relatives
25 shall be given preferential consideration for the placement of the
26 child: an adult who is a grandparent, aunt, uncle, or sibling.

27 (d) Subsequent to the hearing conducted pursuant to Section
28 358, whenever a new placement of the child must be made,
29 consideration for placement shall again be given as described in
30 this section to relatives who have not been found to be unsuitable
31 and who will fulfill the child's reunification or permanent plan
32 requirements. In addition to the factors described in subdivision
33 (a), the county social worker shall consider whether the relative
34 has established and maintained a relationship with the child.

35 (e) If the court does not place the child with a relative who has
36 been considered for placement pursuant to this section, the court
37 shall state for the record the reasons placement with that relative
38 was denied.

39 (f) (1) With respect to a child who satisfies the criteria set forth
40 in paragraph (2), the department and any licensed adoption agency

1 ~~may search for a relative and furnish identifying information~~
2 ~~relating to the child to that relative if it is believed the child's~~
3 ~~welfare will be promoted thereby.~~

4 ~~(2) Paragraph (1) shall apply if both of the following conditions~~
5 ~~are satisfied:~~

6 ~~(A) The child was previously a dependent of the court.~~

7 ~~(B) The child was previously adopted and the adoption has been~~
8 ~~disrupted, set aside pursuant to Section 9100 or 9102 of the Family~~
9 ~~Code, or the child has been released into the custody of the~~
10 ~~department or a licensed adoption agency by the adoptive parent~~
11 ~~or parents.~~

12 ~~(3) As used in this subdivision, "relative" includes a member~~
13 ~~of the child's birth family and nonrelated extended family~~
14 ~~members, regardless of whether the parental rights were terminated,~~
15 ~~provided that both of the following are true:~~

16 ~~(A) No appropriate potential caretaker is known to exist from~~
17 ~~the child's adoptive family, including nonrelated extended family~~
18 ~~members of the adoptive family.~~

19 ~~(B) The child was not the subject of a voluntary relinquishment~~
20 ~~by the birth parents pursuant to Section 8700 of the Family Code~~
21 ~~or Section 1255.7 of the Health and Safety Code.~~

22 ~~SEC. 7. If the Commission on State Mandates determines that~~
23 ~~this act contains costs mandated by the state, reimbursement to~~
24 ~~local agencies and school districts for those costs shall be made~~
25 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
26 ~~4 of Title 2 of the Government Code.~~